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COMMITTEE ON THE PEACEFUL USES
OF OUTER SPACE

REPORT ON THE THIRTY-SIXTH SESSION

Addendum

II. RECOMMENDATIONS AND DECISIONS (continued)

C. Report of the Legal Subcommittee on the work of its thirty-second session (agenda item 6)

1. The Committee took note with appreciation of the report of the Legal Subcommittee on the work of its thirty-second session (A/AC.105/544), which contained the results of its deliberations on the items assigned to it by the General Assembly in its resolution 46/67.

1. Question of early review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space

2. The Committee noted with satisfaction that, following many years of work, the Principles Relevant to the Use of Nuclear Power Sources in Outer Space had been adopted by the General Assembly in resolution 47/68 of 14 December 1992.

3. The Committee further noted the recognition by the General Assembly that the set of Principles would require future revision in view of emerging nuclear power applications and of evolving international recommendations on radiological protection, and the provision that the Principles should be reopened for revision by the Committee no later than two years after their adoption.

4. The Committee noted that the Subcommittee, in accordance with General Assembly resolutions 47/67 and 47/68, had considered the question of early review and possible revision of the Principles through its Working Group under the chairmanship of Mr. H. Freudenschuss (Austria).

5. The Committee noted the work carried out by the Subcommittee and the Working Group, as reflected in their reports (A/AC.105/544, paras. 24-30, and annex I).

6. The Committee agreed that the Principles should be implemented and that they should be reviewed to consider whether revision was necessary. It was also agreed that the Scientific and Technical Subcommittee should consider the need for revision in the light of changing technology before any actual revision should be undertaken by the Legal Subcommittee or the Committee.

7. The Committee recommended that the Legal Subcommittee continue consideration of the item at its next session.

2. Matters relating to the definition and delimitation of outer space and to the character and utilization of the geostationary orbit, including consideration of ways and means to ensure the rational and equitable use of the geostationary orbit without prejudice to the role of the International Telecommunication Union

8. The Committee noted that the Subcommittee, in accordance with General Assembly resolution 47/67, had continued to consider this item through its Working Group under the chairmanship of Mr. E. Zawels (Argentina).

9. The Committee noted the work carried out by the Subcommittee and the Working Group, as reflected in their reports (A/AC.105/544, paras. 31-37, and annex II).

10. The Committee noted that a variety of views had been expressed on the question of the definition and delimitation of outer space. Those views were elaborated on and reiterated during the current session of the Committee.

11. Some delegations reiterated the view that a conventionally defined boundary between airspace and outer space was needed and that the Subcommittee should continue to consider the question, with a view to establishing such a boundary. Other delegations reiterated the view that the need for such a definition or delimitation had not yet been established and that attempts to establish prematurely a boundary between airspace and outer space might complicate and impede progress in the peaceful exploration and use of outer space.

12. The Committee noted that a working paper concerning the legal regime for aerospace objects (A/AC.105/C.2/L.189) had been submitted to the Legal Subcommittee by the Russian Federation. The Committee further noted that a draft questionnaire concerning aerospace objects had been discussed by the Working Group on the basis of an informal paper by the Chairman and that suggestions had been made for submitting the questionnaire for comments to Member States, to the International Civil Aviation Organization and to the Scientific and Technical Subcommittee. The Committee agreed that those documents, among others, could form a suitable basis for future discussions.

13. The Committee took note of the deliberations on the question of the geostationary orbit as contained in the report of the Legal Subcommittee. The

Committee noted that an exchange of views had taken place on that subject, particularly on the basis of the ideas formulated in the working paper submitted by Colombia (A/AC.105/C.2/L.192). Some delegations felt that the working paper could provide a valuable basis for further discussions.

14. Some delegations stressed that the geostationary orbit was part of outer space and that its legal status was subject to all provisions of the 1967 Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies (General Assembly resolution 2222 (XXI)) and to the appropriate rules of ITU, which had the status of a treaty.

15. Some delegations reiterated the view that the geostationary orbit, because of its particular characteristics, required a special, sui generis, legal regime to regulate access and utilization by all States, taking into account the needs of developing countries. The view was also expressed that such a legal regime should also take into consideration the particular situation of the equatorial countries.

16. Some delegations reiterated the view that the roles of ITU and of the Subcommittee were complementary and that the Subcommittee could contribute to the establishment of a special legal regime to regulate the use of the geostationary orbit. Other delegations reiterated the view that ITU was the appropriate body to address questions concerning the use of the geostationary orbit and was addressing those questions effectively.

17. The Committee recognized that space debris was a cause for concern in the geostationary orbit as well as in lower orbits.

18. The Committee recommended that the Legal Subcommittee continue consideration of the item at its next session.

3. Consideration of the legal aspects related to the application of the principle that the exploration and utilization of outer space should be carried out for the benefit and in the interests of all States, taking into particular account the needs of developing countries

19. The Committee noted that the Subcommittee, in accordance with General Assembly resolution 47/67, had continued to consider this item through its Working Group under the chairmanship of Mr. R. González (Chile).

20. The Committee noted the constructive work carried out by the Subcommittee and the Working Group, as reflected in their reports (A/AC.105/544, paras. 38-43, and annex III).

21. The Committee took note with satisfaction of the discussion based on working paper A/AC.105/C.2/L.182/Rev.1, as well as of the positive reaction of the co-sponsors to comments made by other delegations, which will be taken duly into account in future discussions.

22. Some delegations expressed the view that it was essential to elaborate legal principles which would ensure that all countries could have access to, and benefit from, outer space activities. They felt that the draft principles on the subject presented by several developing countries in working paper A/AC.105/C.2/L.182/Rev.1 had been carefully drafted to take into account those concerns, as well as the interests of both developed and developing countries. They believed that the debate on the basis of that paper at the last session of the Subcommittee was very interesting, useful and constructive.

23. Some delegations expressed the view that future legal principles relating to the item should address the existing inequalities between the technologically advanced space nations and the developing countries without the infrastructure, resources and technological capability to benefit from space exploration and utilization. They felt that those principles should emphasize the development of indigenous space capabilities, particularly in developing countries, as well as ensuring access to space resources and technology and the widest possible diffusion of the benefits of space activities among the peoples of the world.

24. The Committee recommended that the Legal Subcommittee should continue the consideration of the item at its next session.